

Remarks

Claims 1-9 are pending.

35 U.S.C. 103(a) Rejection

The Examiner rejects Claims 1 and 9 under 35 U.S.C. 103(a) as being unpatentable over Day et al. (US2001/0036936). The Examiner argues that it would have been obvious to a person having ordinary skill in the art at the time the invention was made to treat atherosclerosis by administering an effective amount of zoledronate thus arriving at the claimed invention. Applicants respectfully disagree.

The claims of the present invention recite methods for treating atherosclerosis in a patient in need of such treatment which comprises administering an effective amount of a bisphosphonate to the patient wherein the bisphosphonate is zoledronic acid or pamidronate, preferably zoledronic acid.

Day et al. teach methods of treating atherosclerosis comprising the combination of a polyphosphonate and a statin and optionally further comprising an histamine H2 receptor blocker (i.e. antagonist) and/or a proton pump blocker. The co-administration of two pharmaceutically active agents, i.e. the statin and the polyphosphonate is essential to the inventions described in Day et al. because the co-administration is the treatment method. The Examples are specific to the co-administration of these two agents and there are no examples disclosing any single agent benefit for treating atherosclerosis. Day et al. does not disclose that polyphosphonate as single agents would be useful for the treatment of atherosclerosis. Furthermore, the preferred polyphosphonate described in Day et al. is aledronate and the examples are specific to the use of aledronate. Aledronate is a pharmaceutically active agent that is a polyphosphonate but not a N-bisphosphonate. Zoledronic acid is a known N-bisphosphonate that has a different chemical structure when compared to aledronate. A person of ordinary skill in the art would not look to the teachings of aledronate in combination with a statin to arrive at the claimed invention, i.e. the use of zoledronic acid or pamidronate as a single agent therapy for the treatment of atherosclerosis. Applicants respectfully request this 35 U.S.C. 103(a) rejection be withdrawn from consideration.

Entry of this Response is respectfully requested.

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